



Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PDC02-107. Planned Development Rezoning from R-1-1 Residence District to A(PD) Planned Development Zoning District and subsequent permits to allow up to 2 single-family detached residences on an 88.98 gross acre site at the eastside of McKean Road approximately 5,500 feet south of Bailey Avenue, (North First Street Properties, Owner, Brandenburg Properties, Developer). Council District: 10

Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **June 3, 2003**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **May 15, 2003** and ends on **June 3, 2003**.

A public hearing on the project described above is tentatively scheduled for **June 3, 2003 at 7.00 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 180 W. San Carlos Street, and the Santa Teresa Branch Library, 290 International Circle, San Jose, CA 95119, and online at www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Dipa Chundur** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: May 14, 2003

Deputy

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: McKean Road Property Planned Development Rezoning and Parcel Map.

PROJECT FILE NUMBER: PDC02-107

PROJECT DESCRIPTION: Planned Development Rezoning from R-1-1 Residence District to A(PD) Planned Development Zoning District and subsequent permits to allow up to 2 single-family detached residences on an 88.98 gross acre site at the eastside of McKean Road approximately 5,500 feet south of Bailey Avenue

PROJECT LOCATION & ASSESSORS PARCEL NO.: East side of McKean Road approximately 1700 feet south of Bailey Avenue; 712-14-011

COUNCIL DISTRICT: 10

NAME OF APPLICANT: North First Street Properties

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON: Sue Dillon, MacKay & Soms, 1955 The Alameda, San Jose CA - 95126

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

AESTHETICS

- The design of the homes shall be reviewed in accordance with the General Plan Hillside Development Policies 4, 6, 8, 9, 10, and 12.
- Trees and landscaping shall be provided to reduce the visual impact of the homes from McKean Road.

- Public streets that are impacted by project construction activities shall be swept and/or washed down daily.
- Debris, rubbish and trash shall be cleared from any areas onsite that are visible from a public street.

AIR QUALITY

- A Construction Air Quality Plan shall be developed and implemented for dust control to include dust suppression practices such as: 1) frequent watering; 2) damp sweeping of haul routes, parking and staging areas; 3) installation of sandbags or other erosion control measures to prevent silt runoff to public roadways; 4) vehicle speed controls; 5) watering or the use of soil stabilizers on haul routes, parking and staging areas; 6) prohibition of grading during high winds; 7) hydroseeding areas where grading is completed or inactive; 8) covering of stockpiles and loads in haul vehicles; 9) maintaining at least two feet of freeboard in all haul vehicles; 10) limiting the area being graded at a given time; 11) monitoring of particulate levels; and 12) enforcement measures.

BIOLOGICAL RESOURCES

- All trees within construction areas for the homes, associated structures and infrastructure shall be inventoried by a professional arborist and categorized according to location, species and size prior to any approval or permit for construction of any improvement on the project site.
- A tree restoration plan shall be developed and implemented, including the ratio, location and species of trees to be planted.
- Any Ordinance-sized (18-inch diameter or greater) tree that is removed shall be replaced by four 24-inch box trees.
- Preconstruction surveys for nesting raptors shall be conducted by a qualified ornithologist within 30 days of the onset of construction activities, if construction is to occur during the breeding season (January through September); and if an active raptor nest is found on the site, the ornithologist, in consultation with the California Department of Fish and Game, shall determine the extent of a construction-free buffer zone to be established around the nest (usually a minimum of 250 feet, but depends on the species, location in the tree and local topography), the buffer zone shall be fenced, and no construction equipment or workmen shall enter the enclosed buffer zone until the conclusion of the breeding season.

CULTURAL RESOURCES

- Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
- In the event, however, that archaeological traces (human remains, artifacts, concentrations of shell/bone/rock/ash) are encountered, all construction within 30 feet should be stopped and the Planning Department notified and an archeologist retained to access the situation and propose appropriate measures and, make appropriate recommendations. Mitigation would include collection

and analysis of the materials prior to the resumption of grading, preparation of a report, and curation of the materials at a recognized storage facility shall be developed and implemented under the direction of the Director of Planning Building and Code Enforcement.

GEOLOGY AND SOILS

- The project shall be designed and constructed to incorporate wall bracing, mudsill anchors, tie downs, and/or hinge connectors to ensure structural stability as required by the earthquake design regulations of the Uniform Building Code.
- All earthwork and foundation plans and specifications shall comply with the recommendations of the geologic hazards evaluation and soil engineering study by Earth Systems Consultants Northern California. The geotechnical report lists approximately 34 recommendations that are included in the project for site grading, foundations, concrete slabs-on-grade, retaining walls, surface drainage and erosion protection, utility trench backfill and asphalt pavement design, most of which reflect standard engineering practices that are not required to mitigate environmental impacts. The recommendations that specifically address potential geotechnical hazards found on the site are included below.
- No concentrated surface water shall be allowed to flow over the top of cut, fill or natural slopes; instead, such surface water shall be diverted by soil berms or concrete lined ditches or shall be collected in catch-basins back from the slope edge.
- Drainage shall be controlled away from all structures and pavements.
- A City approved erosion control plan shall be developed and implemented with such measures as: 1) the timing of grading activities during the dry months, if feasible; 2) temporary and permanent planting of exposed soil; 3) temporary check dams; 4) temporary sediment basins and traps and/or 5) temporary silt fences.
- A combination of grading, retaining wall and drainage measures, as presented in the geologic hazards evaluation and soil engineering study by Earth Systems Consultants Northern California, shall be implemented during the design and construction of the proposed residences and access roads to mitigate any potential slope stability impacts.

HYDROLOGY AND WATER QUALITY

- A Notice of Intent and a Storm Water Pollution Prevention Plan that addresses both construction and post-construction periods and specifies erosion and sediment control measures, waste disposal controls, maintenance responsibilities, and non-stormwater management controls, shall be submitted to the RWQCB to comply with the stormwater discharge requirements of the NPDES General Permit.
- A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES permit shall be developed and implemented including: 1) site description; 2) erosion and sediment controls; 3) waste disposal; 4) implementation of approved local plans; 5) proposed post-construction controls, including description of local post-construction erosion and sediment control requirements; 6) Best Management Practices (BMP) such as the use of infiltration of runoff onsite, first flush diversion, flow attenuation by use of open vegetated swales and natural depressions, stormwater retention or detention structures, oil/water separators, porous pavement, fossil filters, or a combination of these practices for both construction and post-construction period water quality impacts; and 7) non-storm water management.

NOISE

- Noisy construction operations shall be scheduled for the daytime hours of 7:00 a.m. to 7:00 p.m. Monday through Friday so as to avoid the more sensitive evening, nighttime and weekend hours.

PUBLIC SERVICES

- New water service facilities, including mains and hydrants, shall be provided.
- Non-combustible roofing materials shall be utilized during project construction; and the building areas shall be cleared of combustible vegetation.

UTILITIES AND SERVICE SYSTEMS

- An onsite sewage disposal system, including septic tanks and subsurface leaching systems, shall be installed and operated in accordance with the regulations of the Santa Clara County Health Department in conjunction with general region-wide requirements established by the San Francisco Bay Regional Water Quality Control Board's "*Minimum Guidelines*."
- New water service facilities, including mains, pump station and hydrants, shall be provided..

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **June 3, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP, Director
Planning, Building and Code Enforcement

Circulated on: May 14, 2003

Deputy

Adopted on: _____

Deputy

PUBLIC HEARING NOTICE

A change in Zoning will be considered at a public hearing before the City Council on **June 3rd 2003, at 7:00 p.m.**

This public hearing will be held in accordance with Title 20 of the San Jose Municipal Code in the City Council Chambers, on the second floor of City Hall, at 801 North First Street, San Jose, California. You are welcome to attend and to speak on this issue. If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.

The project being considered is:

PDC02-107. Conforming Planned Development Rezoning from R-1-1 Residence District to A(PD) Planned Development Zoning District to allow up to 2 single-family detached residences on a 88.98 gross acre site, located at/on east side of McKean Road approximately 5,500 feet south of Bailey Avenue. (North First Street Properties). Council District 10. CEQA: Mitigated Negative Declaration.

Reports, drawings, and documents for this project are on file and available for review 9:00 a.m. to 5:00 p.m., Monday through Friday at:

Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110
(408) 277-4576
www.ci.san-jose.ca.us/planning/sjplan/

A staff report and recommendations will be available for your review during the week of the public hearing at the Department of Planning, Building and Code Enforcement and in a public packet at the hearing. To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 277-4576 (Voice) or (408) 998-5299 (TTY) at least 48 hours before the meeting.

Comments and questions are welcome, and should be referred to the Project Manager, **Dipa Chundur**, of the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project. For your convenience, contact Debi Stollman at the above telephone number the week of the public hearing to verify that this item will be heard and is not scheduled for deferral to a later date.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Mike Enderby, Senior Planner
Dated: 5/13/03

Patricia L. O'Hearn, City Clerk

SECTION 20.120.400 OF THE SAN JOSE MUNICIPAL CODE
ESTABLISHES A FORMAT PROTEST PROCEDURE FOR REZONINGS
AND PREZONINGS BEFORE THE CITY COUNCIL

If you are the owner of property to be rezoned, or if you own property adjacent to or across the street from a proposed rezoning or prezonings, you may file an Official Protest. Such protest must be made on a form provided by the Director of Planning and must be filed in the Department of Planning, Building and Code Enforcement **by 5:00 p.m.** on the fifth day before the City Council opens its public hearing on the proposal (that is, the Thursday before a Tuesday hearing). A separate protest petition shall be filed for each separate protesting site. Contact the Department of Planning, Building and Code Enforcement if you have any questions.

Noticing Radius: **500 feet**